IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

**THE HON'BLE MR JUSTICE K.C. BHANU**

**WRIT PETITION NO : 23793 of 2004**

Between:

M.R. Swamy, Hindu, Conductor (E-255443), APSRTC,
Suryapet Bus Depot, Nalgonda District.

**..... PETITIONER**

AND

1 The Depot Manager, APSRTC, Suryapet Bus Depot, Nalgonda District.
2 The Regional Manager. APSRTC, Nalgonda Region at Nalgonda.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of mandamus declaring that the action of the Respondent No.1 in withholding the petitioners annual increment which next falls due be for a period of 2 years which shall have effect on petitioners future increments as modified by the R2 herein as deferment of petitioners annual increment for a period of 1 year with cumulative effect as bad, arbitrary, illegal, unjust, unreasonable, contrary to the regulation and violative of principles of natural justice by setting aside the Proc.No. 02/05/DS (153) /2000-SRPT dated 23-7-01 and consequential order dated 20-5-2003 of R2 herein and consequently direct the respondents to add the increments and pass such other order or orders

**Counsel for the Petitioner:MR.P.VENKATESWAR RAO**

**Counsel for the Respondent No.: MR.V.T.M.PRASAD (S.C.FOR APSRTC)**

**The Court made the following:**

**ORAL ORDER:**

The case of the petitioner is that on 11.7.1997, while he was performing his duty as Conductor by issuing tickets on route Gottiparthy, a check was made by the checking officials, who found certain cash and ticket irregularities committed by the petitioner. Therefore, the respondent-Corporation issued a charge sheet dated 1.12.2000 to the petitioner, for which he gave explanation on 10.5.2001. On the basis of the explanation submitted by the petitioner, the first respondent passed a final order, dated 23.7.2001 imposing a penalty of withholding of annual increments for a period of two years, which shall have effect on his future increments. Aggrieved by the same, the petitioner carried the matter in appeal, which was dismissed by an order, dated 19.3.2002. He preferred a review to the second respondent, who by an order dated 20.5.2003 modified the order passed by the first respondent by reducing the penalty of deferment of annual increment for a period of one year with cumulative effect. Questioning the same, the present writ petition has been filed.

The learned counsel for the petitioner has contended that major penalty cannot be imposed without conducting enquiry and therefore, he prays to modify the penalty imposed on the petitioner since the incident took place in the year 2000.

The learned standing counsel for the respondents opposed the same and submitted that there are no grounds to interfere with the findings given by the lower authorities.

The incident took place on 18.11.2000, wherein the petitioner committed certain cash and ticket irregularities. Therefore, the first respondent called for explanation from the petitioner and having not been satisfied with the explanation offered by the petitioner, the first respondent imposed the major penalty of deferment of two increments with cumulative effect by proceedings dated 23.7.2001.

There cannot be any dispute that imposing penalty of stoppage of two increments with cumulative effect, is a major penalty, which cannot be imposed without conducting regular departmental enquiry. Admittedly, in this case, no such departmental enquiry was conducted. Though the matter can be remitted to the first respondent, but under the peculiar facts and circumstances of the case, as the incident took place about four years back, it is not desirable to remit the matter again, and perhaps, that is the reason why the learned counsel for the petitioner has requested this Court to impose minor penalty instead of major penalty.

Having regard to the facts and circumstances of the case, the punishment of major penalty of deferment of two increments with cumulative effect, imposed by the first respondent as confirmed in appeal and as modified in Review Petition can be reduced with slight modification. Therefore, the order of punishment is modified as deferment of one increment without cumulative effect.

The writ petition is accordingly disposed of. No costs.

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(K.C. BHANU, J.)

21st December, 2004.

bcj

To

1 The Depot Manager, APSRTC, Suryapet Bus Depot, Nalgonda District.
2 The Regional Manager. APSRTC, Nalgonda Region at Nalgonda.

3. Two C.D. copies